

TENNECO OIL COMPANY

IBLA 77-78

Decided March 7, 1977

Appeal from decision of the Wyoming State Office, Bureau of Land Management, extending oil and gas leases following termination of the unit agreement of which the leases were part. W-037767-A, W-037767-B.

Set aside and remanded.

1. Oil and Gas Leases: Extensions--Oil and Gas Leases: Unit and Cooperative Agreements--Rules of Practice: Appeals: Generally

A Bureau of Land Management decision extending the lease term of an oil and gas lease for 2 years following the termination of the unit agreement of which the lease was a part is premature, where the lessee has appealed the Geological Survey's determination of the effective date of termination of the unit agreement. The Bureau of Land Management decision will be set aside and the case remanded to await the final outcome of the lessee's appeal of the Geological Survey determination.

APPEARANCES: John W. Coughlin, Esq., Moran, Reidy & Voorhees, Denver, Colorado.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Tenneco Oil Company 1/ has appealed from separate decisions of the Wyoming State Office, Bureau of Land Management (BLM),

1/ Cordillera Corporation also joins in the appeal. Cordillera is the holder of interests in the two leases involved herein by assignment from Tenneco. Such assignment is pending approval.

dated November 1, 1976, respectively extending oil and gas leases W-037767-A and W-037767-B to January 31, 1977.

The BLM decisions were based upon a determination of the Area Oil and Gas Supervisor, United States Geological Survey (GS), dated October 14, 1976, terminating the Sugar Creek Unit Agreement (No. 14-08-0001-8892), of which the two leases herein were part, effective January 31, 1975.

The regulation under which BLM operated in extending the leases for 2 years is 43 CFR 3107.5. Such regulation reads:

Any lease eliminated from any approved or prescribed cooperative or unit plan or from any communitization or drilling agreement authorized by the act, and any lease in effect at the termination of such plan or agreement, unless relinquished, shall continue in effect for the original term of the lease, or for 2 years after its elimination from the plan or agreement or the termination thereof, whichever is the longer, and so long thereafter as oil or gas is produced in paying quantities.

The crux of Tenneco's appeal is that it has appealed the October 14, 1976, GS decision to the Director, GS, pursuant to 30 CFR 290.3, and that, therefore, the BLM decisions were premature until the final resolution of Tenneco's appeal from the GS decision. We agree.

Tenneco explains that it has appealed the GS decision because it believes that GS erroneously determined the date of termination of the unit to be January 31, 1975. Tenneco argues that the date should have been July 8, 1976, because pursuant to the wording of 30 CFR 226.12, section 20(c), "diligent operations were in progress for the restoration of production" until July 8, 1976. 2/

If the Director, GS, determines that Tenneco is correct in its contention, the BLM decisions are clearly wrong. Even if the

2/ 30 CFR 226.12, section 20(c), reads in pertinent part:

"* * * a valuable discovery of unitized substances has been made or accepted on unitized land during said initial term or any extension thereof, in which event the agreement shall remain in effect for such term and so long as unitized substances can be produced in quantities sufficient to pay for the cost of producing same from wells on unitized land within any participating area established hereunder and, should production cease, so long thereafter as diligent operations are in progress for the restoration of production * * *."

Director, GS, affirms the Area Oil and Gas Supervisor's determination, Tenneco may appeal the Director's decision to this Board pursuant to 30 CFR 290.7.

In light of these facts the BLM decisions were issued prematurely. Until the exact date of termination of the Sugar Creek Unit Agreement is finally decided, it is impossible to determine the calendar dates for extension of the leases.

Therefore, the decisions will be set aside and the cases will be remanded to BLM to await the final outcome of Tenneco's appeal of the Area Oil and Gas Supervisor's decision.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are set aside and the cases are remanded to BLM.

Frederick Fishman

Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

